REMARKS

In the Office Action of August 24, 2004,[1] claims 1-44 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-10 of U.S. Patent No. 6,631,416 to *Bendinelli et al.*; and claims 1-9, 34-36, and 40-43 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1-19 of copending Application No. 09/832,346.

Although disagreeing with the rejections, in an effort to advance prosecution, Applicants file a Terminal Disclaimer[2] concurrently with this paper, obviating the obviousness-type double patenting rejections. Applicants request reconsideration of this application in view of the attached Terminal Disclaimer, withdrawal of the obviousness-type double patenting rejections, and the timely allowance of pending claims 1-44.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 24, 2004

By: _____
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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

[2] Applicants point out that: "[t]he filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection." M.P.E.P. § 804.02(II), 8th Ed., Aug. 2001, p. 800-32 (citing *Quad Environmental Tech. Corp. v. Union Sanitary Dist.*, 946 F.2d 870 (Fed. Cir. 1991)). As M.P.E.P. § 804.02(II) indicates, "[t]he Court indicated that the 'filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection.'" *Id.*